

develop the processes and other material referred to in your Motion.

This letter was not introduced into evidence in the proceedings.

The show cause hearing was held on April 1, 1997. In that hearing, MCI presented the only witness regarding compliance with the implementation schedule approved in Docket No. AIA-96-2. The witness testified that all of the allegations in the MCI motion to compel and the attachments to the motion were true and accurate to the best of his information and belief. (Tr. 99). He further testified the materials listed in paragraphs 1 and 2 of the "STANDARDS OF SERVICE" portion of attachment 13 have not been provided to date. (Tr. 101-102). In support of the witness's claim that U S West's failure to provide the information was willful, the witness noted that MCI has been negotiating with U S West since last summer and seeking the materials in question since that time. (Tr. 103). The witness then provided evidence of compliance problems MCI has had with U S West in other local competition situations in Iowa, Washington, Colorado, and Minnesota. (Tr. 103-104).

The witness testified that exhibit 1, "IOWA SUMMARY OF PROPOSED WHOLESALE MEASUREMENTS," provided by U S West to MCI on March 28, 1997, is not responsive to requirements 1 and 2 for a number of reasons. The document is a summary of proposed, and not current, measurements. It is limited to wholesale and does not include retail services. There is no underlying support for the document. And finally, a U S West witness testified in Washington state that U S

DOCKET NO. AIA-96-2 (ARB-96-2)  
PAGE 4

West has detailed process measurements and quality measurements for services.  
(Tr. 105-106).

On cross-examination, the witness noted that in letters to Mr. Sather, from Karen L. Clauson on January 28, 1997, and from William M. Pitcher on February 6, 1997, Mr. Pitcher was identified as the MCI contact person to receive materials from U S West in compliance with attachment 13. (Tr. 113). Mr. Pitcher heads a group of MCI employees in Denver set up to work with U S West in implementing interconnection agreements in Iowa and other states. (Tr. 121). The witness testified that MCI has not received anything as a result of the Board's order through Mr. Pitcher, nor through its attorneys in the Iowa case. (Tr. 113).

The purpose of the hearing was to give U S West an opportunity to show cause why it should not be assessed civil penalties under IOWA CODE § 476.51. It did not do so. Based on the evidence provided at the hearing the Board finds a clear and continuing violation by U S West of paragraphs 1 and 2 in the "STANDARDS OF SERVICE" portion of the implementation schedule, identified as attachment 13, of the interconnection agreement between U S West and MCI. That interconnection agreement, including the implementation schedule, was approved by Board order on January 10, 1997, and made effective by Board order on January 14, 1997.

In addition, the Board finds that the uncontroverted evidence shows the violation to be "knowing and deliberate, with a specific intent to violate" which makes the violation "willful" as that term is defined in § 476.51. MCI demonstrated that U S

West uses quality measures and process measures, known within the company as Q's and P's, which is precisely the type of information required in the "STANDARDS OF SERVICE" section. (Tr. 106, citing to MCI motion, paragraph 13). U S West failed to provide this information in any meaningful form to MCI.

Under § 476.51, in determining the amount of the penalty, the Board may consider the size of the public utility, the gravity of the violation, and the good faith of the utility in attempting to achieve compliance following notification of a violation, and any other relevant factors. U S West is among the largest public utilities regulated by the Board. The timely implementation of the interconnection agreement between U S West and MCI is a matter of highest public policy importance under IOWA CODE §§ 476.95, 476.100, and 476.101 (1997) ( portions of the Iowa telephone competition act passed in 1995), and under the Federal Telecommunications Act of 1996. It is essential to the development of local service competition that U S West act in good faith to comply with the implementation schedule set by the Board. U S West has not made a good faith attempt to achieve compliance following notification of a violation. For these reasons, the maximum penalty provided by statute is fully warranted.

**IT IS THEREFORE ORDERED:**

1. Pursuant to IOWA CODE § 476.51, for a willful, continuing violation of paragraphs 1 and 2 of the "STANDARDS OF SERVICE" section of attachment 13 to the interconnection agreement approved by the Utilities Board in Docket No. AIA-96-

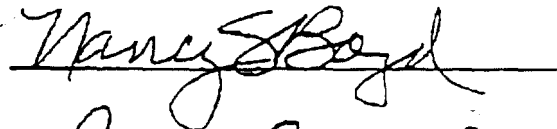
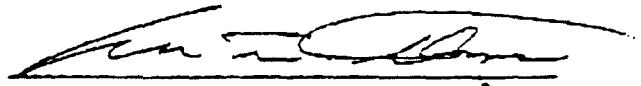
DOCKET NO. AIA-96-2 (ARB-96-2)  
PAGE 6

2 in an order on January 10, 1997, and made effective in an order on January 14, 1997, a civil penalty of \$10,000 is levied upon U S West Communications, Inc., for each day after March 21, 1997, to continue until U S West shall comply with paragraphs 1 and 2.

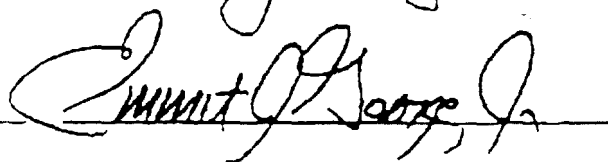
2. The violation has been proven through April 1, 1997. Payment for these eleven days of continuing violation, \$110,000, is now due and payable to the Utilities Board, to be forwarded by the Executive Secretary to the Treasurer of State.

3. After an opportunity for hearing, the number of days, if any, of violation subsequent to April 1, 1997, will be determined by the Board when U S West complies with paragraphs 1 and 2.

UTILITIES BOARD



ATTEST:

  
Executive Secretary

Dated at Des Moines, Iowa, this 4th day of April, 1997.

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# Press Release

Washington Utilities and Transportation Commission

FOR IMMEDIATE RELEASE  
UT-970766/No. 1

Jan. 16, 1998

**Editor's note:** An electronic version of the Washington Utilities and Transportation Commission's written decision is available on the Internet at the agency's World Wide Web site {<http://www.wutc.wa.gov>} under the section called US West.

**State regulators require US West to provide better phone service in approving rate increase**

*Overall rates will go up for residential customers and down for businesses  
Commission creates incentives for US West to invest in upgrading phone network*

**OLYMPIA, Wash.** — In approving a rate increase today, state regulators told US West Communications, Inc. to provide better phone service and invest more money in a high-quality telecommunications network that would serve all Washington residents well into the 21st century.

"One of the commission's greatest concerns is that the company provide top-quality service to the residential and small business customers who presently have almost no alternative service providers," said the three-member Washington Utilities and Transportation Commission (WUTC) in a written decision.

"It is essential that the company meet its obligation under the law to provide adequate service. Market rewards offer strong incentives to the company to increase investment, allowing it to develop and offer competitive services. The company must also invest a sufficient amount in the facilities that are needed to maintain quality service to its residential and small business customers."

The commission approved a \$58.8 million revenue increase from the \$100 million US West originally sought. The company requested a \$70.3 million annual rate hike last August.

US West or any of the other parties in the case, has 10 calendar days to file for reconsideration of the case with the commission, or 30 calendar days to appeal the decision to Superior Court.

The commission, which has the authority to regulate the telephone rates and services provided by US West in the state, ordered the phone company to improve customer service. The WUTC is requiring the company to provide cellular phones to customers whose phone installation is delayed more than five days. The commission also ordered the company to give customers \$50 credit if the utility fails to meet a service appointment.

-- more --

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This news release is available in  
alternate format by contacting:  
(360)664-1133  
or TTY (360)586-8203

## **New Residential, Business and Directory-Assistance Rates**

Beginning Feb. 1, US West's customers' bills should reflect reductions due to the recent Supreme Court decision on the 1996 request and the result of this current case.

US West will raise basic local service rates for the company's 1.6 million customers by \$2 a month from the current \$10.50 charge. Even with the increase to \$12.50 a month, Washington's residential telephone rates are lower than the \$3 a month rate hike requested by US West. (See attached table for new phone rates.)

The phone company's 500,000 business customers will pay \$26.60 monthly starting Feb. 1. Currently, each US West business line costs between \$18 and \$40 a month. Under the commission's 1996 ruling, about 83 percent of the state's business customers would have seen a drop in their bills to \$25 a month.

However, the decrease was not allowed to go into effect pending a series of court appeals by the company. Now that the court has upheld the WUTC's decision, the majority of businesses will be paying lower overall monthly rates for local telephone service.

The commission also allowed US West to increase charges for directory-assistance calls. Residential customers will receive one free directory assistance call a month, and pay 60 cents for each additional call. The cost for businesses will be 60 cents for each directory-assistance call.

There will be no change in the amount paid for telephone service by the 113,450 low-income households that participate in the Washington Telephone Assistance Program (WTAP). The program provides reduced rates for low-income families who need help paying for local residential phone service.

## **US West's Annual Revenues**

The commission approved additional revenues of \$58.8 million a year in this current rate case, down from the phone company's filing of \$70.3 million. The WUTC had already approved \$36.1 million of the total, which allows a faster recovery of the phone company's depreciation expenses.

The WUTC is granting \$22.7 million of the remaining \$34 million a year in operating expenditures US West had requested. The commission disallowed the recovery of \$10.5 million in salary bonuses for the company's management due to poor customer service.

Citing improved service quality, the company was seeking to recoup these expenses that were originally discarded from the previous rate case. However, in last year's order, the commission said US West must demonstrate substantial improvement in customer service to recover the money.

## **WUTC Requires Customer-Service Improvements**

The commission remains concerned about the phone company's customer service quality.

"The company's service quality remains a matter of grave concern to the commission," the order states. "We recognize the improvement since the company's prior rate order -- but when an improvement by one-third leaves the company some seven to nine times worse than its performance in 1991, we cannot characterize the improvement as substantial or significant."

--more--

The WUTC has received fewer complaints in 1997 from US West customers experiencing long delays in getting telephone service -- a drop from 1,219 in 1996 to 824 last year. "Phone installation delays are 12.3 times greater than 1991 levels," said the commissioners. (See attached graph.)

In the last rate case, the WUTC told US West to provide cellular phones to customers waiting more than 30 days for a telephone hookup. In this order, the commission is requiring the company to notify all eligible customers about the cell-phone program and reduce the wait to five days.

In addition, the commission is requiring the phone company to pay \$50 to customers for missed service repair or installation appointments.

"We expect the company will schedule appointments, make commitments, and assign staff more realistically, so that it will avoid the need to offer the credit in the vast majority of circumstances," said the commissioners in their decision.

### **Investment to Upgrade Phone Network in Washington**

Another area the WUTC has expressed a deep concern about is the lack of money the company is investing in maintaining and upgrading Washington's public-telephone network.

The WUTC has tabulated a record-number of complaints in 1997 from customers who are experiencing problems such as incomplete calls, heavy static on their lines and fast-busy signals. The complaints, primarily lodged by businesses, have quadrupled from 136 in 1996 to 472 last year. (See attached charts on complaint data.)

The commission believes the company has failed to make the investments necessary to keep up with service demands and maintain a high-quality telephone system that is not easily overburdened by a large volume of calls.

US West has said it needs a rate hike to increase the level of investment in the state and if the commission makes the "right" decision the company would commit over \$30 million in investment.

The WUTC agrees with one of the parties in the case by saying, "we support the investment that the company promised, but not the need to meet preconditions for the investment," said the order. "The business case for offering these services is compelling and there is no reason the commission will need to 'buy' them with a decision that is not otherwise appropriate or in the public interest.

"During the early 1990's, the company earned and kept millions of dollars more than its authorized return, yet during that period was reducing its investment in the state. Some of the company's present service problems appear to stem from its failure to invest sufficient capital or human resources."

The commission also is requiring the phone company to submit more detailed status reports containing specific information about which geographic areas are experiencing phone-network congestion problems. "Our preference would be to obtain that information on an exchange-by-exchange basis so we could match service problems with investment," said the commissioners.

-- more --

### **Implementation of Last Year's Rate Rollback**

The state Supreme Court recently upheld the commission's 1996 ruling that told US West to improve its service quality, cut revenues and reduce charges for business and short-haul long distance customers. Because a stay was instituted on all the decreases in the case, none of the reductions were allowed to go into effect May 1, 1996.

In an effort to avoid customer confusion, all rate rollbacks from last year's ruling will be implemented Feb. 1, the same time this decision takes effect. Various parties have asked the state Supreme Court to determine if the commission has authority over disbursement of approximately \$215 million in refunds.

US West, headquartered in Englewood, Colo., is the largest telephone company in Washington, serving 70 percent of the state's customers for a total of 2.3 million residential and business phone lines. US West is one of the seven regional Bell operating companies created by the breakup of AT&T in 1982. The phone company serves 25 million customers in 14 Midwest and Western states.

###

US WEST Monthly Telephone Rates for Basic Local Service in Washington					
Type of Service	Current Rates	US WEST Proposed Increase	WUTC Staff Recommended Increase	Commission Increase Decision	New Total
Residential Line	\$10.50	\$3.00	\$2.60	\$2.00	\$12.50
Business Line	\$25.00*	\$2.00	\$2.00	\$1.60	\$26.60
Directory Assistance Calls	Two free calls; \$0.35 each additional call	Two free calls; \$0.60 each additional call	One free call; \$0.60 each additional call	Residential - one free call; \$0.60 each additional call  Business - each call \$0.60	

\* Rate stayed by court order; most businesses due refunds

SOURCE: Washington Utilities and Transportation Commission  
January 16, 1998

## US WEST CUSTOMER COMPLAINTS

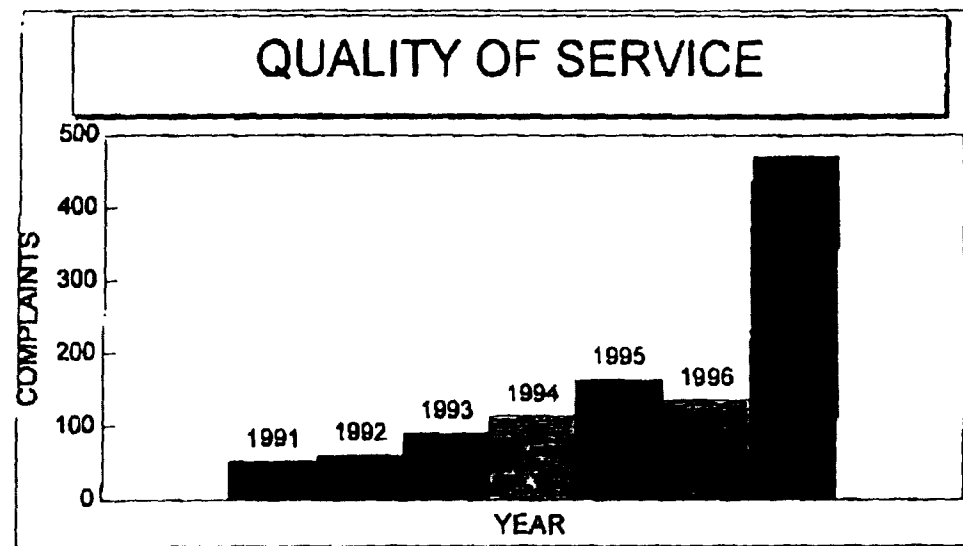
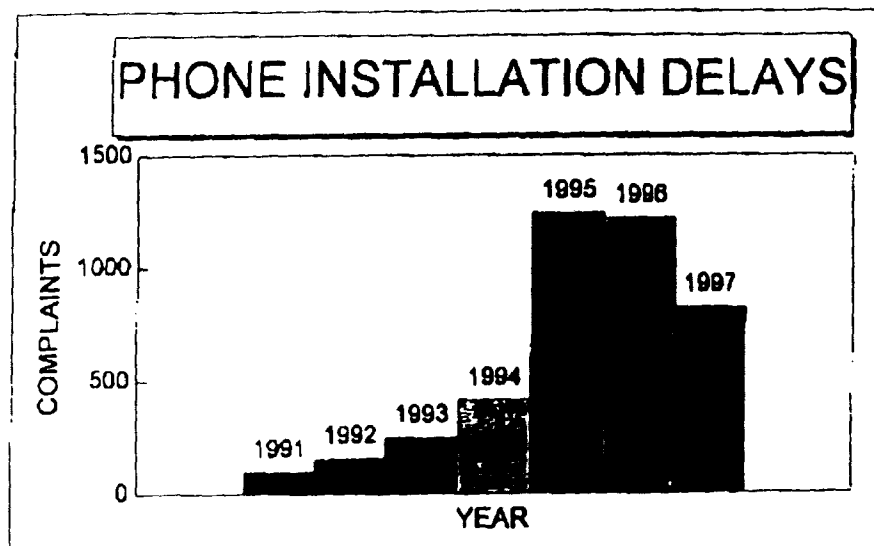


Exhibit G  
Page 6

YEAR	COMPLAINTS
1991	99
1992	157
1993	249
1994	413
1995	1243
1996	1219
1997	824

YEAR	COMPLAINTS
1991	53
1992	61
1993	91
1994	114
1995	165
1996	136
1997	472

SOURCE: Washington Utilities and Transportation Commission

January 16, 1998

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ORDER NO. 98-035

ENTERED JAN 26 1998

This is an electronic copy. Appendices may not be included.

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 867

In the Matter of an Investigation into the	)	
Service Quality of U S WEST	)	
Communications, Inc., Pursuant to	)	ORDER
ORS 756.515.	)	

**DISPOSITION: STIPULATION ADOPTED**

On October 27, 1997, the Commission issued Order No. 97-411, finding U S WEST Communications, Inc. (USWC) in violation of administrative rules on service quality. The order found that USWC's held order total exceeds the level allowed by OAR 860-023-0055(2)(d). The Commission ordered USWC to submit a written report showing why it is not in compliance with the rule and to present a plan for bringing its operations into compliance with the rule.

On November 26, 1997, USWC filed its report and plan. In Order No. 97-464, the Commission adopted USWC's proposal for the Commission's Staff and the company to work in a collaborative process to finalize details of an agreement. The final plan would include monthly or quarterly targets for held orders. Although not required by the rule, USWC also committed to reduce the number of critical orders (orders held over 30 days for business and residence primary lines and business additional lines) as part of a final stipulation.

On January 21, 1998, Staff and the company submitted a stipulation that provides the details for USWC to bring its held order backlog into compliance with the Commission rule by the third quarter of 1999. The stipulation includes substantial reparations that USWC has agreed to pay if it fails to meet agreed upon quarterly targets. The stipulation contains no restrictions on the Commission's ability to pursue penalties for violation of other areas of service quality. In addition it enables the Commission to terminate the stipulation if the percentage of repairs based on customer trouble reports that are cleared within 48 hours falls below 90 percent per month. The stipulation is attached as Appendix A.

The Commission has reviewed the stipulation and finds that it should be approved. Although we would prefer a more rapid schedule, we are willing to accept the schedule set forth in the stipulation because it contains reparations to insure that USWC makes regular improvements in reducing its held orders and includes a schedule for reducing the number of critical held orders.

IT IS ORDERED that:

1. The stipulation attached as Appendix A between U S WEST Communications, Inc., and the Commission Staff is adopted.

**Exhibit H**

**Page 1**

2. U S WEST Communications, Inc. has complied with the requirements of Order No. 97-411 to present a plan for bringing its operations into compliance with OAR 860-023-0055(2)(d).

Made, entered, and effective \_\_\_\_\_.

\_\_\_\_\_  
**Ron Eachus**  
 Chairman

\_\_\_\_\_  
**Roger Hamilton**  
 Commissioner

\_\_\_\_\_  
**Joan H. Smith**  
 Commissioner



ORDER NO. 97-428

ENTERED NOV 03 1997

This is an electronic copy.

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 823

In the Matter of the Investigation into the Entry  
of U S WEST Communications, Inc., into  
In-Region InterLATA Services under Section  
271 of the Telecommunications Act of 1996.

)

) ORDER ON

) RECONSIDERATION

)

DISPOSITION: APPLICATION FOR RECONSIDERATION GRANTED.

PREAPPLICATION PROCEDURES MODIFIED IN PART.

U S WEST Communications, Inc. (USWC) requests reconsideration of procedures adopted in anticipation of its application to the Federal Communications Commission (FCC) for authorization to provide in-region interLATA services. We grant the application and modify our prior order in part.

**Introduction**

Section 271 of the Telecommunications Act of 1996 (Act) authorizes USWC to petition the FCC for permission to provide interLATA services originating in Oregon. Once a petition is filed, the FCC must act on the application within 90 days, and among other things, consult with this Commission to verify USWC's compliance with a 14-point competitive checklist and other related requirements.

In order to fulfill our consulting role with the FCC, we initiated this proceeding to develop a factual record concerning USWC's compliance with the competitive checklist and the status of local competition in advance of USWC's expected filing. Following rounds of comments from USWC, competitors, and other interested parties, we adopted a set of detailed preapplication procedures designed to allow this Commission to make a comprehensive determination of USWC's compliance with Section 271(c). *See* Order No. 97-258.

On September 2, 1997, USWC requested reconsideration of several procedures contained in Order No. 97-258. USWC asserts that this Commission should reconsider several procedures because there has been a change of law since the order was issued.

On September 17, 1997, AT&T Communications of the Pacific Northwest, Inc. (AT&T) filed a response to USWC's petition. Due to a service error in USWC's filing of its request for reconsideration, the Commission Staff (Staff) was granted an extension of time to file a response and did so on October 17, 1997.

## Discussion

USWC raises seven arguments on reconsideration. After our review, we find that good cause exists for further examination of matters essential to our prior decision. *See* OAR 860-014-0095(3). We grant the request for reconsideration and address each argument separately.

### Draft Copy of FCC Application

USWC objects to the requirement that it provide the Commission with a working draft copy of the application it intends to file with the FCC. USWC first notes that any working draft application will be incomplete and subject to many revisions. It further asserts that such a document is privileged information under the attorney work-product doctrine.

AT&T and Staff dispute USWC's argument. AT&T contends that USWC's claim of attorney work-product is unfounded, noting that the Commission is not requesting the company file documents in which USWC's attorneys are providing privileged legal advice to their client. We agree. In adopting a requirement that USWC file a draft copy of its FCC application, we merely seek the most complete and current information regarding USWC's compliance with Section 271 and other related matters. A prior review of this information, even if subject to later changes and modification, will better enable the Commission to provide the FCC with an accurate and comprehensive recommendation.

### Tentative Recommendation

USWC proposes that the Commission supplement the procedures and agree to provide the company with a tentative or proposed recommendation at least 15 days prior to the end of the 90-day preapplication period. USWC requests the Commission provide a tentative recommendation to allow the company to address any issues or concerns identified during Commission review.

AT&T does not oppose USWC's proposal, but does not believe that a tentative recommendation should be given 15 days prior to the end of the review period. Given the short time period for the substantial examination required in any preapplication review, AT&T suggests that such a recommendation be given no more than five days prior to the end of the 90-day review period.

Staff objects to USWC's proposal. It believes that adding the notification process would be contrary to the primary goal of the preapplication procedures; that is, to allow the Commission to issue a timely recommendation to the FCC. It further contends that such a requirement is not necessary, as USWC may be able to address the Commission's recommendation within the FCC's review process.

We acknowledge USWC's desire for a tentative recommendation from this Commission. The FCC has indicated that it will give substantial weight to a state's evaluation in reviewing a Section 271 application. A state's assessment of Section 271 requirements, however, is not made until after an application is filed with the FCC—when no new evidence in support of the application may be submitted by USWC. Thus, by obtaining a tentative recommendation from this Commission, USWC could attempt to cure any deficiencies prior to its filing with the FCC.

At the same time, however, we cannot overlook the strict time constraints placed upon us in reviewing USWC's application. Under procedures adopted by the FCC, this Commission has just 20 days after the application is filed to evaluate and comment on what is expected to be an enormous and complex record. In an effort to meet this expedited review process, we adopted preapplication

procedures designed to develop a comprehensive record on Section 271 requirements in advance of USWC's filing. The addition of USWC's proposed "tentative recommendation" requirement, whether given 15 or 5 days prior to the end of the 90 day preapplication review period, would severely restrict our ability to complete a thorough examination of the application and provide a comprehensive recommendation to the FCC within the limited time period.

Accordingly, we decline USWC's suggestion to supplement the preapplication procedures with a "tentative recommendation" requirement. In reaching this decision, however, we note that the procedures, as currently adopted, will provide USWC some advance notice of other parties' concerns, including that of our Staff. As set forth in Appendix A, paragraph 4, any party may comment on USWC's preapplication filing 30 days after its submission. These comments should alert USWC to possible deficiencies in its application well in advance of its formal filing with the FCC.

### **3. Track A or Track B**

USWC objects to two conclusions reached in Order No. 97-258 regarding the use of Section 271(c)(1)(A) (Track A) or Section 271(c)(1)(B) (Track B) in its application to the FCC. First, USWC argues that the Commission should not prejudice whether the company will be required to use Track A in a future application based on the requests for access and interconnection that it has received to date. USWC misreads our order. Based on the numerous requests for access and interconnection filed with USWC, we stated:

" the Commission assumes that USWC will utilize Track A in its application to provide interLATA services. Track B applies only where no competing provider has requested access and inter-connection under Section 271(c)(1)(A) or if the competitors act in bad faith when negotiating a Section 252 agreement."

Order No. 97-258, Appendix A, page 2.

Contrary to USWC's assertion, we did not prejudice whether the company will be required to use Track A in a future application. Rather, we merely provided our present assessment of USWC's possible use of Track B.

Second, USWC contends that the Commission need not determine at this time whether the company may use a combination of Track A and Track B when submitting its Section 271 application. We disagree. As we stated in Order No. 97-258, there is no legal basis to support USWC's use of a combination of Track A and Track B when submitting a Section 271 application. Section 271(c)(1) expressly states that a Bell operating company must satisfy the requirements of "subparagraph (A) or subparagraph (B)." (Emphasis added.)

### **4. Requirements for a Facilities-Based Competitor**

USWC contends that our conclusions regarding the requirements for a "facilities-based competitor" under Section 271 are inconsistent with subsequent rulings by the FCC. USWC points out that in its recent rejection of a Section 271 application filed by Ameritech Michigan, the FCC concluded that Track A does not require a single facilities-based competitor to provide service to both business and residential customers. Rather, USWC notes that the FCC found it sufficient to satisfy Track A if multiple carriers collectively serve both classes of customers.

Furthermore, USWC states a facilities-based competitor need not provide services over facilities that it owns. USWC notes that the FCC also ruled in the *Ameritech* decision that Track A may be satisfied

**Exhibit I**

where a competitor provides service using unbundled network elements that the competitor has obtained from a Bell operating company (BOC).

We agree and modify Section C of the preapplication procedures as follows. The second question set forth at the top of page 3 of Appendix A of Order No. 97-258 is deleted. The last paragraph of Section C is modified to read:

In this second-part determination, the Commission will also consider whether: (1) a facilities-based competitor provides both business and residential services; or (2) if multiple facilities-based competitors collectively serve residential and business customers.

## **5. CLEC Information**

USWC objects to the requirement that it provide information to the Commission regarding its competitors' business. USWC argues that it simply does not have access to such information and that the competitive local exchange companies (CLECs) have resisted disclosing information that is competitively sensitive. USWC believes that the Commission should obtain that information directly from the CLECs or adopt procedures to allow USWC the ability to obtain the information through data requests.

AT&T and Staff disagree with USWC's argument. AT&T contends that USWC's customer service records for new entrants should provide all necessary information and that additional information from the CLECs is not necessary. Staff objects to the adoption of additional procedures, noting that USWC may petition the Commission for appropriate assistance if the company is unable to obtain information in certain circumstances.

In our prior order, we noted that USWC carries the burden of proof in a Section 271 filing, and must make a prima facie showing on all issues. We also acknowledged USWC's concern that it may not have in its possession all the required information necessary to complete a Section 271 application. Nonetheless, we directed USWC to use all resources at its disposal to obtain such data, and to submit any information of probative value. On reconsideration, we adhere to our prior comments and agree with AT&T that USWC's service records for new entrants and other data in its possession should provide the necessary information. As noted by AT&T, the FCC has indicated that:

The most probative evidence that all entry strategies are available would be that new entrants are actually offering competitive local telecommunications services to different classes of customers (residential and business) through a variety of arrangements (that is, through resale, unbundled elements, interconnection with the incumbent's network, or some combination thereof), in different geographic regions (urban, suburban, and rural) in the relevant state, and at different scales of operation (small and large).

USWC should be able to produce information demonstrating the actual availability of entry strategies through use of its sale records from competitors' purchases of unbundled network elements, interconnection, and resale.

## **6. Terms used in Section E – Competitive Checklist**

USWC asks that the Commission clarify certain terms used in the preapplication procedures and delete other provisions. First, USWC requests clarification of the phrase "on a commercial basis" and the term "commercially" used in Questions 1 and 3 of Section E. USWC states that it does not understand what the Commission means by these phrases.

**Exhibit I**

**Page 4**

In its *Ameritech* decision, the FCC emphasized the need for evidence addressing the commercial use in verifying compliance with the competitive checklist. We agree with AT&T that the FCC's discussion should be sufficient to adequately inform USWC of the nature of these terms and its use in the context of a Section 271 proceeding.

USWC next objects to Question 5 of Section E, which asks how the company's performance compares to "national industry standards." USWC states that it is not aware of national performance standards on each and every checklist item. USWC asks that this requirement be clarified or eliminated.

We recognize that national industry standards may not currently exist for every checklist item. Nonetheless, we believe that the use of national benchmarks is vital in determining USWC's compliance with the competitive checklist, and further expect the development of new industry standards with increased local competition. Accordingly, Generic Question (5) in Section E should be modified to read:

(5) How do USWC's performance standards compare to any existing national industry standards for the checklist item?

USWC also objects to Question 7, Section E, which asks whether the company is able to provide service for the checklist requirement "in all parts of its Oregon service area." USWC contends that Section 271 does not require that checklist requirements be provided in all portions of its service area, just those areas that are competitive.

As noted above, the FCC's examination will focus on whether a regional Bell operating company has made available all entry strategies in "urban, suburban, and rural areas." Our Question 7 is relevant to this inquiry and should not be deleted.

Finally, USWC argues that Checklist Item 2, Unbundled Network Elements, Questions 4, 5, and 6 should be clarified to incorporate the recent Eighth Circuit decision invalidating portions of the FCC rule. We do not believe any modification is necessary. We expect USWC's response to these questions will incorporate the Eighth Circuit's and any subsequent decision limiting or interpreting the FCC's rules.

## **7. Separate Affiliate and Public Interest**

USWC contends that the Commission should delete sections F and G of the preapplication procedures. Section F directs USWC to provide information regarding its affiliates and their actual or intended operations for interLATA services in Oregon. Section G seeks information pertaining to whether USWC's entry into the interLATA market would be in the public interest. Because the FCC is not required to consult with this Commission on these matters, USWC contends that we should not spend time and resources to consider these issues.

USWC's request ignores the FCC's recent holdings. In its *Ameritech* order, the FCC stated that the states are uniquely situated to develop a factual record on all Section 271 issues and to make an assessment of the state of local competition. To fulfill these obligations, this Commission must solicit information on a wide variety of issues, including information pertaining to USWC's affiliate activities and whether its entry into the interLATA market is in the public interest. Furthermore, as Staff notes, USWC previously agreed that this Commission should make a recommendation on the public interest issue, stating:

**Exhibit I**

"[T]his Commission could bring a valuable perspective to the FCC's deliberations in this area, and should not be reticent from doing so." USWC Opening Comments, January 7, 1997, at page 23, lines 8-9.

### ORDER

IT IS ORDERED that the application for reconsideration filed by U S WEST Communications, Inc., is granted. The preapplication procedures adopted in Order No. 97-258 are modified as set forth above. Otherwise, Order No. 97-258 is unchanged.

Made, entered, and effective \_\_\_\_\_.

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**Ron Eachus**

Chairman

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**Roger Hamilton**

Commissioner

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**Joan H. Smith**

Commissioner

A party may appeal this order to a court pursuant to ORS 756.580.



ORDER NO. 97-411

ENTERED OCT 27 1997

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 867

In the Matter of an Investigation into the     )  
Service Quality of U S WEST                     )  
Communications, Inc., Pursuant to             )  
ORS 756.515.   )

ORDER

**DISPOSITION: RULE VIOLATION FOUND; USWC ORDERED TO SHOW CAUSE WHY IT IS NOT IN COMPLIANCE**

At the October 21, 1997, public meeting of the Public Utility Commission (Commission), the Commission Staff reported on the service quality problems of U S WEST Communications, Inc. (USWC). Based on the Staff report, we determined that USWC is in violation of our service quality rules. We also concluded that within 30 days, USWC shall show cause why it is not complying with held orders standard set forth in OAR 860-023-0055(2)(d). That rule provides:

The average number of held access line orders shall not exceed the greater of 2 per wire center per month averaged over the telecommunications utility's Oregon service territory, or 4 held order per 1000 inward orders.

Our rules define a held order as a customer's request for access line service delayed beyond the utility's commitment date due to lack of facilities. The rules further provide that the commitment date may be no more than five business days (unless a later date is mutually agreed to). *See* OAR 860-023-0055(1)(b) and (2)(a).

We conclude that USWC is in violation of OAR 860-023-0055(2)(d). Our records show that USWC is in violation of the rule if it has more than 154 held orders, based on the wire center calculation, or 140 held orders, based on the inward order calculation. Based on the records before us, we find that USWC has 722 held orders in its service territory. That number is five times the number allowed in the rules.

Furthermore, the Commission records show that the held order and other service quality problems are of long standing. USWC has had service quality problems since at least 1990. In fact, the Commission terminated USWC's alternative form of regulation in 1996 because of USWC's deteriorating service quality. Order No. 96-107. Finally, the Staff report discloses that USWC has refused to submit a service improvement proposal that will bring it into compliance with the rule.

We have been as patient as we can be in allowing USWC to bring its service quality up to an acceptable standard. Since we authorized the alternative form of regulation (AFOR plan) in 1991, USWC's service quality plummeted. USWC had 87 held orders at that time. As of August 1997, the number was 722. In addition, our Consumer Services program continues to receive record high levels of complaints concerning USWC's service, generally, and held orders in particular. In fact, in only the

first nine months of 1997, customers filed more service complaints against USWC than they had filed in any previous 12-month period since 1989.

We can no longer condone the conduct of a regulated monopoly that refuses to provide its customers reasonable service. We have little recourse but to approve the Staff recommendation to require USWC to show cause why it is violating the service standards in the rule. We will also require USWC to propose a schedule by which it will bring its operations into compliance with our service standards. USWC shall file its response to this order within 30 days of the date of service.

### CONCLUSIONS

USWC is in violation of OAR 860-023-0055(2)(d) because its held order total exceeds that level allowed in the rule.

### ORDER

IT IS ORDERED that:

1. Within 30 days of the date of service of this order, USWC shall file with the Commission a written report showing why it is not in compliance with OAR 860-023-0055(2)(d).
2. At the time it files its report, USWC shall present a plan for complying with OAR 860-023-0055(2)(d), specifying held order levels to be achieved by a particular dates.

Made, entered, and effective \_\_\_\_\_.

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**Ron Eachus**  
Chairman

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**Roger Hamilton**  
Commissioner

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**Joan H. Smith**  
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements of OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070. A party may appeal this order to a court pursuant to ORS 756.580.

